

SENATE BILL 1984
By Bryson

AN ACT to amend Tennessee Code Annotated, Title 53,
Chapter 3, relative to production and sale of
unpasteurized dairy products.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 53, Chapter 3, is amended by adding
the following language as a new, appropriately designated part:

§ 53-3-401. The purpose of this part is to:

(1) Recognize, protect and assure the right of consumers to exercise their
freedom to choose to access and purchase unpasteurized dairy products and the right of
farmers and artisans to produce, market, sell and distribute unpasteurized dairy products
directly to consumers;

(2) Recognize the need to build value-added food products that can differentiate
and economically support and sustain family farms and agricultural businesses; and

(3) Set standards by which the safety of unpasteurized dairy products will be
tested and regulated by the state.

§ 53-3-402. As used in this part, unless context otherwise requires:

(1) "Producer of unpasteurized dairy products" means any farmer or artisan who
harvests or produces unpasteurized dairy products;

(2) "Unpasteurized dairy product" means a dairy product that has not undergone
the process of pasteurization as defined in the rules of the dairy division of the
department of agriculture and the pasteurized milk ordinance, 2001 revision (PMO).

§ 53-3-403. In accordance with the provisions of the Uniform Administrative Procedures Act, title 4, chapter 5, part 2, the commissioner is authorized to promulgate such rules as may be reasonably necessary to enforce the provisions of this part.

§ 53-3-404.

(a) Notwithstanding any provision of law to the contrary, producers of unpasteurized dairy products who sell such products directly to consumers are exempt from title 53, chapters 1 through 3 if the requirements of § 53-3-405 through § 53-3-409 are satisfied.

(b) This section shall apply to all producers of unpasteurized dairy products who maintain any ruminant animal, including (but not limited to) cattle, goats, sheep and buffalo.

§ 53-3-405.

(a) A state-approved independent lab shall perform tests on all samples of unpasteurized dairy products taken pursuant to this subsection. The lab shall send results to the producer of unpasteurized dairy products and the state simultaneously by facsimile transmission. Results shall also be mailed to both the producer and the state.

(1) Bacteria levels must be tested once a month. The standard plate count (SPC) must be less than twenty thousand (20,000) live bacteria per milliliter of milk as required for pasteurized milk by pasteurized milk ordinance, 2001 revision (PMO). If the SPC is twenty thousand (20,000) or more, then the producer of unpasteurized dairy products shall immediately submit a new sample to the lab. The results of the second test must be reported to the producer and the state within seven (7) days. If the results of the second test indicate an SPC of twenty thousand (20,000) or more, then the producer must immediately submit a third sample. The results of the third test must be reported to the producer and

the state within seven (7) days. If the results of the third test indicate an SPC of twenty thousand (20,000) or more, then the producer shall not sell or distribute unpasteurized dairy products to consumers until the lab sends two consecutive results indicating an SPC of less than twenty thousand (20,000).

(2) The presence of listeria monocytogenes, salmonella and e-coli 0157 must be tested for every ninety (90) days. If there is a positive result, then the producer of unpasteurized dairy products shall immediately cease sale and distribution of such products until the producer and the state receive two consecutive negative results from the lab.

(b) Results of all tests required by this section must be maintained for two (2) years.

§ 53-3-406.

(a) Raw milk must be drawn and collected in a sanitary manner. The raw milk must be chilled to below forty (40) degrees Fahrenheit within one (1) hour of the time it is drawn.

(b) A standard dairy milk filter or equivalent must be used to filter raw milk.

(c) Unpasteurized dairy products must be continuously chilled at or below forty (40) degrees Fahrenheit until final delivery to a consumer.

(d) Producers of unpasteurized dairy products may use a standard thermometer to meet the requirements of this section and are not required to use a chart temperature recorder.

§ 53-3-407. All unpasteurized dairy products shall be labeled with:

(1) A standard label warning with the language “**Not Pasteurized – Warning:** Unpasteurized dairy products may contain disease causing microorganisms. Persons at highest risk from these organisms include newborns and infants, the elderly, pregnant

women, persons taking antibiotics, persons taking antacids and persons with weakened immunity from chronic illness or other condition;

- (2) The date of production;
- (3) The producer's name and contact information;
- (4) A label indicating the contents of the product; and
- (5) The weight or amount of the product contents.

§ 53-3-408.

(a) Unpasteurized dairy products may be sold or offered for public consumption on the farm premises, or delivered, being maintained either frozen or at, or below, the required forty (40) degrees Fahrenheit holding temperature, to farmers' markets or other such places as the producers and consumers may mutually agree or arrange to utilize.

(b) Any producer of unpasteurized dairy products may sell or offer for public consumption unlimited amounts of unpasteurized dairy products if the requirements of this part are satisfied by each item for sale.

(c) Any producer of unpasteurized dairy products may advertise or promote the sale of unpasteurized dairy products without limitation if the provisions of title 53, chapter 1 and this part are satisfied by each product advertised.

§ 53-3-409. If a confirmed illness or pathogen is traced to a particular producer of unpasteurized dairy products, then that producer shall correct the problem and that producer's operations, including the production, distribution and sale of unpasteurized dairy products, shall continue.

§ 53-3-410. A producer of unpasteurized dairy products is responsible for the health and safety of the products they offer for sale or distribution; however, if the unpasteurized dairy product is labeled as required in § 53-3-407(1), then the consumer has been notified of the risks associated with the consumption of unpasteurized dairy products.

§ 53-3-411. Any violation of the provisions of this part, including rules adopted in accordance with such provisions, is a Class C misdemeanor.

§ 53-3-412. It is the duty of the district attorney general of the judicial district in which the commissioner reports a violation of the provisions of this part, to investigate, prefer and prosecute charges if and when the district attorney general in the exercise of sound discretion deems such an action to be proper.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2005 the public welfare requiring it.